

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition: 83-007-15-1-1-01027-16
Petitioners: Rick and Lori Swinford
Respondent: Vermillion County Assessor
Parcel: 83-10-08-300-005.000-007
Assessment Year: 2015

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, finding and concluding as follows:

PROCEDURAL HISTORY

1. Petitioners filed a request for review of their 2015 assessment. On March 15, 2016, the Vermillion County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination reducing the assessment, but not to the level Petitioners requested.
2. Petitioners responded by timely filing a Form 131 petition with the Board. They elected to proceed under our small claims procedures. On July 13, 2016, Jacob Robinson, our designated administrative law judge (“ALJ”), held a hearing. Neither he nor the Board inspected the property.
3. The following people were sworn as witnesses: Lori A. Swinford and Vermillion County Assessor Paige Kilgore.

FACTS

4. The subject property contains a home located at 1280 E. 900 S. in Hillsdale.
5. The PTABOA determined the following assessment:

Land: \$116,100 Improvements: \$143,600 Total: \$259,700

RECORD

6. The official record for this matter contains the following:
 - a. A digital recording of the hearing
 - b. Exhibits

Petitioners Exhibit 1: Demonstrative spreadsheet

Petitioners Exhibit 2: Property record card (“PRC”) for 9390 S. 200 E.
 Petitioners Exhibit 3: PRC for 9855 S. 200 E.
 Petitioners Exhibit 4: PRC for 9721 S. 275 E.
 Petitioners Exhibit 5: PRC for 10010 S. 200 E.
 Petitioners Exhibit 6: PRC for 11058 S. Rangeline Road
 Petitioners Exhibit 7: PRC for 10556 S. State Road 71

Board Exhibit A: Form 131 petition
 Board Exhibit B: Hearing notice
 Board Exhibit C: Hearing sign-in sheet

c. These Findings and Conclusions

CONTENTIONS

7. Summary of Petitioners’ case:

- a. Petitioners claim their home’s assessment is too high compared to neighboring homes’ assessments. Petitioners’ home is 1,920 square feet and was built in 1986. It has wood windows and vinyl siding. It had a quality grade of “C-” and was assessed for an amount equaling \$58.70/sq. ft. By contrast, four “pretty comparable” homes from the same neighborhood, all of which are larger than Petitioners’ home and some of which have brick exteriors, were assessed at lower rates. Petitioners pointed to the following information about those homes:

Address	Design/Construction	Size	Year	Grade	Price/sq. ft.
10010 S. 200 E	Brick	6,038 sq. ft.	2006	B+2	\$56.91
9721 S. 275 E	Vinyl Siding	2,128 sq. ft.	1977	C+2	\$51.03
9855 S. 200 E	2 story	3,708 sq. ft.	2000	C+2	\$43.42
9390 S. 200 E	Vinyl Siding ¹	4,584 sq. ft.	1998	B-1	\$40.88

Swinford Testimony; Pet’rs Exs. 2-5.

- b. The PTABOA could not explain why Petitioners’ home is assessed at a higher rate than the others, even when accounting for depreciation. When Respondent gave them a spreadsheet with the price per square foot used to assess homes of various sizes, she told them, “the larger the home, the cheaper the assessed value.” *Swinford testimony; Pet’rs Ex. 1.*
- c. Petitioners also have several outbuildings, including a 30’x48’ structure built in 1957 with metal siding and a poured concrete floor. That building was assessed at \$7.36/sq. ft. after receiving 65% depreciation. Their neighbor, Gerald Hill, has an 80’x104’ pole building constructed in 2009. Its interior is completely finished. It also has heating, air conditioning, a bathroom, a laundry room, and an office. Yet it was assessed at only \$6.71/sq. ft. According to Petitioners, Timothy and Nancy Foltz

¹ Ms. Swinford testified that this home may also have a brick chimney.

have an outbuilding similar to Mr. Hill's that does not appear on their property record card. *Swinford testimony; Pet'rs Exs. 6-7.*

8. Summary of Respondent's case:
 - a. Respondent understands Petitioners' concern about their home being assessed at a higher price per square foot than larger homes. But that is how the assessor's cost tables work. Those tables account for economies of scale. *Kilgore Testimony.*
 - b. Respondent admitted that she had not looked into the outbuildings.

BURDEN OF PROOF

9. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving a property's assessment is wrong and what the correct assessment should be. Indiana Code § 6-1.1-15-17.2, also known as the burden shifting statute, creates an exception to that rule where (1) the assessment currently under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) a successful appeal reduced the previous year's assessment below the current year's level, regardless of the amount. I.C. § 6-1.1-15-17.2. Under those circumstances, the assessor has the burden of proving the assessment is correct. *Id.* If she fails to do so, it reverts to the previous year's level or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(b). In this case, Petitioners conceded that they had the burden of proof.

ANALYSIS

10. Real property is assessed based on its "true tax value," which means "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2); *see also* Ind. Code § 6-1.1-31-6(c). Parties may offer any evidence relevant to true tax value, including the assessments of comparable properties, although "[t]he determination of whether properties are comparable shall be made using generally accepted appraisal and assessment practices." I.C. § 6-1.1-15-18(c). Where the property under appeal is residential, the comparable properties must be located in the same taxing district or within two miles of the taxing district's boundary. *Id.*
11. Petitioners focused solely on the portion of their assessment that was attributable to their home and outbuildings. They compared the home's assessment to the assessments of four other homes from the same taxing district. But they did not use generally accepted appraisal or assessment practices in making their comparison. At a minimum, they needed (1) to explain how the other homes compared to their home in terms of relevant characteristics that affect value, and (2) to adjust for relevant differences. *See Indianapolis Racquet Club, Inc. v. Marion County Ass'r*, 15 N.E.3d 150, 155 (Ind. Tax Ct. 2014).

12. Because they were comparing assessments, Petitioners needed to address characteristics that affect how values are determined under Indiana’s mass-appraisal guidelines. Ms. Swinford testified that the other homes were “pretty similar” to Petitioners’ home and compared them along a few lines, including age and size. But she ignored various important characteristics laid out in those guidelines, such as the homes’ condition ratings, and story heights, and the presence or absence of basements and interior or exterior features. *See generally*, 2011 REAL PROPERTY ASSESSMENT GUIDELINES ch. 3 *passim*, Appendix B at 2-7, 2014 Appendix C (with errata) at 2-9. And they did not adjust for relevant differences or otherwise explain how those differences affected the homes’ relative values. Even if we were inclined to undertake that analysis ourselves,² we could not do so because Petitioners failed to offer a property record card for their property.
13. In any case, Petitioners used a unit of comparison—price per square foot of the entire home—that the 2011 Real Property Assessment Guidelines do not contemplate, at least without adjustment. As Respondent explained, the Guidelines’ cost schedules are based on economies of scale, and the per-unit base price decreases as a home’s size increases. 2011 GUIDELINES, 2014 Appendix C (with errata) at 2-4. For example, those cost schedules use a base cost (before adjustments or depreciation) of \$113,000 for a one-story, 2,000-square-foot home with wood frame construction. That translates to \$56.50/sq. ft. The schedules use a base cost of \$204,200 for a similarly designed and built home with 4,000 square feet. That translates to only \$51.05/sq. ft. *See id.*
14. Finally, Petitioners did not explain how the purportedly comparable homes’ assessments translate to any particular value, or range of values, for their home.
15. Petitioners’ evidence addressing their outbuilding suffers from the same shortcomings as their evidence about the home’s assessment. In both cases, they failed to make a prima facie case that their assessment is wrong or what the correct assessment should be.

FINAL DETERMINATION

Petitioners failed to make a prima facie case. We find for Respondent and order no change to the 2015 assessment.

² The parties have a duty to walk us through their cases. *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).

ISSUED: October 6, 2016

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.